

REMARKS

35 U.S.C. § 102

The Examiner has rejected claims 1 and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,121,920 to Laezzo et al. Applicant respectfully disputes the Examiner's position.

In order for a reference to anticipate a claim, the reference must disclose or teach each recited element in the claim. As pointed out below, Laezzo does not disclose or teach each element of claims 1 and 12.

Claims 1 and 12 recite "...a plurality of compartments positioned about a circumference of said container..." Laezzo discloses a plurality of compartments which are positioned on a top of a ball chamber. The compartments are positioned so that they may capture numbered balls which are agitated by a bottom-positioned fan generating an upward air flow. In other words, the air flow forces random balls into the chambers positioned on a top of the chamber. There is no mention or suggestion of positioning the compartments about a circumference of the chamber. In fact, incorporating compartments around the circumference of the Laezzo invention would result in an inoperable device.

In addition, the independent claims of the present application recite a movable door for providing access to the compartments. Laezzo does not disclose an access door or movable door for allowing the balls to enter the compartments. On the other hand, Laezzo discloses a retaining means for retaining the ball within a plurality of ball collection columns.

Accordingly, Laezzo cannot anticipate claims 1 and 12 of the present application.

35 U.S.C. 103(a)

The Examiner has rejected claims 1-6, 8-10, 12-29 and 32-35 under 35 U.S.C. §103(a) as being unpatentable over Matsumoto in view of Dodge. Applicant respectfully disputes the Examiner's position and contends that the combination suggested by the Examiner is improper and, even if proper, does not render the aforementioned claims obvious. Indeed, the combination eliminates the entire inventive concept of the Matsumoto invention and is contrary to the teaching of the Matsumoto reference.

Matsumoto comprises a vertically mounted roulette wheel about a central spacing designed to contain balls as they fall through the central defined space into a numbered random slot on the wheel. In essence, the Matsumoto reference mimics a pachinko style game whereby a plurality of pins affect the transgression of the balls as they fall through the space into one of the roulette wheel slots. Moreover, Matsumoto utilizes a pin-ball type shooting device for transporting the balls from a bottom of the roulette wheel to a top of the wheel so that they may fall randomly through the space into one of the roulette slots. Consequently, Mansumato derives its randomness from the pins and the rotating roulette wheel.

Incorporating an air suction device into Matsumoto renders the pachinko and pin-ball type design irrelevant. That is, with the use of the air suction device, there would be no reason to incorporate pins or the pin-ball shooters. The purpose of the pins is to randomly impact the path of the balls as they fall from a top of the defined space to a bottom of the defined space and into one of the numbered roulette wheel slots. In fact, a specific object of the Matsumoto reference is to provide "a bingo game machine which can provide an increased randomness to a game" (see, column 1, lines 46-48). Accordingly, the combination offered by the Examiner completely eliminates the entire method of randomness employed by the Matsumoto reference.

Moreover, even the broadest independent claims of the Matsumoto reference recite that the balls fall to a bottom portion into a catching portion. Thus, by combining Dodge with Matsumoto, the Examiner has completely replaced the inventive concept (i.e., falling balls) of Matsumoto with the air suction device disclosed in Dodge. An air suction device is not conducive to balls being impacted by gravity as in Matsumoto but, as described in the present application, permit the balls to escape in any direction from within the ball container. Accordingly, Applicant contends that the Examiner's combination is improper in that it removes or eliminates the inventive concept of the Matsumoto reference.

Additionally, Matsumoto specifically raises problems with the prior art consisting of air chambers and air agitation devices (see, column 13-39) and therefore teaches away from the use of an air suction device. By offering the instant combination, the Examiner is acting contrary to the specific disclosure of the Matsumoto reference. Although the

Examiner statement that adding the air suction device to Matsumoto "would have made Matsumoto's gaming machine look more like a conventional keno game and therefore attract conventional keno players" may be accurate, it is exactly what Matsumoto was trying to avoid. The Examiner cannot disregard the specific objects of Matsumoto by opining as to the resultant machine and its player attraction.

Also, contrary to the Examiner's statement, Matsumoto does not disclose symbolized or numbered balls. In fact, Matusmato specifically teaches away from symbolized or numbered balls (see, column 1, lines 13-39). Particularly, Matsumoto utilizes the numbered slots on the roulette wheel in place of numbered balls to overcome what he deems deficiencies in the air suction system. Thus, one skilled in the art would not look to number the balls of the Matsumoto reference to render the present invention obvious.

Applicant believes that the combination of Matsumoto and Dodge is improper and, even if proper, does not render the present claims obvious.

CONCLUSION

Based on the foregoing, it is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,

By: _____
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Date: October 6, 2004

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A copy of this letter is enclosed.*